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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,123	06/26/2001	Asko Koini	NC30557	4892
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WAYNE DEMELLO NOKIA INC. 5 WAYSIDE ROAD BURLINGTON, MA 01803				
EXAMINER GELIN, JEAN ALLAND				
ART UNIT		PAPER NUMBER		
2681		8		

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,123

Applicant(s)

KOMSI ET AL.

Examiner

Jean A Gelin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the Applicant's amendments and arguments filed July 02, 2004 in which claims 1 and 2 have been amended, claim 3 has been canceled, claims 6-21 have been added. Claims 1, 2, 4-21 are currently pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe (US 6,539,240).

Regarding claim 1, Watanabe teaches a system for entity programming (col. 2, line 63 to col. 3, line 17), comprising: an entity player for invoking an entity, wherein the entity includes a plurality of methods (i.e., the dog represents a person, col. 6, lines 19-34); an entity editor coupled to the entity player for invoking the entity player, said entity editor operable to open the entity to at least one of determine and revise capabilities of the editor (i.e., user takes a predetermined action by operating a predetermined key of the key device, col. 12, lines 28-59, for displaying the stars, col. 7, line 64 to col. 8, line 35); and at least one control device coupled to the entity player, wherein the entity player invokes the entity methods in accordance with the control device (i.e., the

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communication device includes a controller to perform the function of displaying the character in animation, col. 8, lines 1-67).

Regarding claim 2, Watanabe teaches selecting an entity wherein the entity includes a plurality of commands that are associated with the entity, and selecting at least one entity command (col. 8, line 49 to col. 9, line 57), where selecting the entity commands is performed through the use of an entity editor operable to open the entity to at least one of determine and revise capabilities of the editor (col. 12, lines 27-59).

Regarding claim 3, Watanabe teaches wherein the step of selecting the entity commands is performed through the use of an entity editor (col. 7, line 64 to col. 8, line 67).

Regarding claims 4 and 5, Watanabe teaches downloading an entity, wherein the entity is associated with a plurality of commands (i.e., receiving two characters, col. 9, lines 33-46); opening the entity in an entity editor to determine the plurality of commands associated with the entity (i.e., nodes in response to WAG TAIL, col. 9, lines 47-56); selecting at least one command (i.e., key operation instruction, col. 9, lines 46-56); and constructing a message from the selected command (col. 9, line 46 to col. 10, line 17).

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 2, and 4-21 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-16 of copending Application No. 09/894,163. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: an entity player for invoking an entity, wherein the entity includes a plurality of methods; an entity editor coupled to the entity player for invoking the entity player; and at least one control device coupled to the entity player, wherein the entity player invokes the entity methods in accordance with the control device.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Allowable Subject Matter

6. Claims 6-21 would be allowable if rewritten or amended to overcome the rejection(s) under the judicially created doctrine of double patenting over claims 1-16 of copending Application No. 09/894,163, set forth in this Office action.

Response to Arguments

7. Applicant's arguments filed July 07, 2004 have been fully considered but they are not persuasive.

The core of the Applicant's argument is that Watanabe fails to teach an entity editor operable to open the entity to at least one of determine and revise capabilities of the editor (support is found in paragraph 0053 for this limitation). Based on this paragraph, it is clear that the user operates the entity to send commands. Therefore, the Examiner interprets the entity editor as the user takes action by operating a predetermined key to send instruction to a communication device. The preceding limitation is taught by Watanabe, col. 12, lines 27-46).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A Gelin whose telephone number is (703) 305-4847. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEAN GELIN
PRIMARY EXAMINER

JGelin
October 4, 2004

